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Debtors and Debtors in Possession*

13  
14 UNITED STATES BANKRUPTCY COURT  
15 EASTERN DISTRICT OF WASHINGTON

16 In re  
17 EASTERDAY RANCHES, INC., *et al.*  
18 Debtors.<sup>1</sup>  
19  
20 EASTERDAY RANCHES, INC. and  
21 EASTERDAY FARMS,  
22 Plaintiffs,  
23 v.  
24 ESTATE OF GALE A. EASTERDAY  
(DECEASED), KAREN L. EASTERDAY,  
CODY A. EASTERDAY, AND DEBBY  
EASTERDAY  
25 Defendants.  
26  
27

Chapter 11

Lead Case No. 21-00141-WLH11  
Jointly Administered

Adv. Pro. No. 21-80050 (WLH)

**DEBTORS' ANSWER AND  
AFFIRMATIVE DEFENSES TO  
COUNTERCLAIMS OF CODY  
AND DEBBY EASTERDAY**

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1                   Easterday Ranches, Inc. (“Ranches”) and Easterday Farms (“Farms”), the above-  
2 captioned debtors and debtors in possession (collectively, the “Debtors” or “Plaintiffs”),  
3 hereby submit this reply (the “Reply”) to the counterclaims (the “Counterclaims”) set  
4 forth in *Cody and Debby Easterday’s Answer, Affirmative Defenses, and Counterclaims*  
5 to *Complaint to Determine Validity, Priority, or Extent of Interests in Property; and for*  
6 *Declaratory Judgment* [Adv. Docket No. 15] (the “Answer”) filed jointly by  
7 Defendants Cody and Debby Easterday (together, the “Defendants”) to the *Complaint*  
8 (*I*) *To Determine Validity, Priority, or Extent of Interests in Property and (II) For*  
9 *Declaratory Judgment* [Adv. Docket No. 1] (the “Complaint”).<sup>2</sup> In support hereof, the  
10 Debtors respectfully state as follows:

11                   **REPLY TO COUNTERCLAIMS**

12                   1. No response to paragraph 1 of the Counterclaims is required because the  
13 Counterclaims speak for themselves.

14                   2. Paragraph 2 of the Counterclaims is admitted.

15                   3. Paragraph 3 of the Counterclaims is admitted.

16                   4. Paragraph 4 of the Counterclaims is admitted.

17                   5. No response to paragraph 5 of the Counterclaims is required because the  
18 transactional documents related to the Sale speak for themselves.

19                   6. Paragraph 6 of the Counterclaims is denied to the extent that it avers that  
20 the Sale Properties<sup>3</sup> were owned by any party other than the Debtors.

21                   7. Paragraph 7 of the Counterclaims is denied to the extent that it avers that  
22 the water rights with respect to the Sale Properties were owned by any party other than  
23 the Debtors.

24                   <sup>2</sup> Unless otherwise indicated, a capitalized term used but not defined herein shall have  
25 the meaning ascribed to it in the Complaint.

26                   <sup>3</sup> The defined term “Sale Properties” shall have the meaning ascribed to it in paragraph  
27 1 of the Answer.

1       8. Paragraph 8 of the Counterclaims is denied to the extent that it avers that  
2 any of the irrigation improvements sold as part of the Sale were owned by any party  
3 other than the Debtors.

4       9. Paragraph 9 of the Counterclaims does not call for a response.

5       10. Paragraph 10 of the Counterclaims is admitted.

6       11. No response to paragraph 11 of the Counterclaims is required because the  
7 *Stipulation By and Between Debtors and Non-Debtor Sellers Regarding Cooperation*  
8 *with Respect to the Sale of Debtor and Non-Debtor Assets* [Bankr. Docket No. 640] (the  
9 “Cooperation Agreement”), as approved at Bankr. Docket No. 655, speaks for itself.

10      12. Paragraph 12 of the Counterclaims is denied.

11      13. Paragraph 13 of the Counterclaims does not call for a response, but to the  
12 extent a response is required, it is denied.

13      14. Paragraph 14 of the Counterclaims is denied.

14      15. Paragraph 15 of the Counterclaims calls for a legal conclusion for which  
15 no response is required, but to the extent a response is required, the paragraph is denied.

16      16. Paragraph 16 of the Counterclaims calls for a legal conclusion for which  
17 no response is required, but to the extent a response is required, the paragraph is denied.

18      17. Paragraph 17 of the Counterclaims does not call for a response.

19      18. Paragraph 18 of the Counterclaims does not call for a response.

20      19. No response to paragraph 19 of the Counterclaims is required because the  
21 Complaint and Counterclaims speak for themselves, but to the extent that a response is  
22 required the Debtors admit they asserted an interest in the Sale Properties and the  
23 proceeds therefrom following the Sale.

24      20. Paragraph 20 of the Counterclaims calls for a legal conclusion for which  
25 no response is required.

27      DEBTORS’ ANSWER AND AFFIRMATIVE  
28      DEFENSES TO COUNTERCLAIMS OF CODY  
      AND DEBBY EASTERDAY – Page 3

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1       21. Paragraph 21 of the Counterclaims calls for a legal conclusion, and no  
2 further response is required because the Counterclaims speak for themselves.

3       22. Paragraph 22 of the Counterclaims calls for a legal conclusion for which  
4 no response is required.

5       23. Paragraph 23 of the Counterclaims calls for a legal conclusion for which  
6 no response is required, but to the extent a response is required, the paragraph is denied.

7       24. Paragraph 24 of the Counterclaims calls for a legal conclusion for which  
8 no response is required, but to the extent a response is required, the paragraph is denied.

9       25. Paragraph 25 of the Counterclaims does not call for a response.

10       26. No response to paragraph 26 of the Counterclaims is required because the  
11 Complaint and Counterclaims speak for themselves, but to the extent that a response is  
12 required the Debtors admit they asserted an interest in the water rights with respect to  
13 Sale Properties and the proceeds therefrom following the Sale.

14       27. Paragraph 27 of the Counterclaims calls for a legal conclusion for which  
15 no response is required.

16       28. Paragraph 28 of the Counterclaims calls for a legal conclusion, and no  
17 further response is required because the Counterclaims speak for themselves.

18       29. Paragraph 29 of the Counterclaims calls for a legal conclusion for which  
19 no response is required.

20       30. Paragraph 30 of the Counterclaims calls for a legal conclusion, and no  
21 further response is required because the Counterclaims speak for themselves.

22       31. Paragraph 31 of the Counterclaims calls for a legal conclusion for which  
23 no response is required, but to the extent a response is required, the paragraph is denied.

24       32. Paragraph 32 of the Counterclaims calls for a legal conclusion for which  
25 no response is required, but to the extent a response is required, the paragraph is denied.

26       33. Paragraph 33 of the Counterclaims does not call for a response.

27       DEBTORS' ANSWER AND AFFIRMATIVE  
28 DEFENSES TO COUNTERCLAIMS OF CODY  
AND DEBBY EASTERDAY – Page 4

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34. No response to paragraph 34 of the Counterclaims is required because the Complaint and Counterclaims speak for themselves, but to the extent that a response is required the Debtors admit they asserted an interest in the irrigation improvements that were sold as part of the Sale and the proceeds therefrom following the Sale.

35. Paragraph 35 of the Counterclaims calls for a legal conclusion for which no response is required.

36. Paragraph 36 of the Counterclaims calls for a legal conclusion, and no further response is required because the Counterclaims speak for themselves.

37. Paragraph 37 of the Counterclaims calls for a legal conclusion for which no response is required.

38. Paragraph 38 of the Counterclaims calls for a legal conclusion for which no response is required, but to the extent a response is required, the paragraph is denied.

39. Paragraph 39 of the Counterclaims calls for a legal conclusion for which no response is required, but to the extent a response is required, the paragraph is denied.

## **FIRST AFFIRMATIVE DEFENSE**

40. The Counterclaims fail to state a claim upon which relief can be granted.

## **SECOND AFFIRMATIVE DEFENSE**

41. The Second, Third, and Fourth Counterclaims are barred, in whole or in part, by the statute of frauds.

## **THIRD AFFIRMATIVE DEFENSE**

42. Each Counterclaim is barred, in whole or in part, by the doctrines of unclean hands and/or *in pari delicto*.

## **FOURTH AFFIRMATIVE DEFENSE**

43. Each Counterclaim is barred, in whole or in part, by the doctrine of waiver.

DEBTORS' ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS OF CODY AND DEBBY EASTERDAY – Page 5

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## **FIFTH AFFIRMATIVE DEFENSE**

44. Each Counterclaim is barred, in whole or in part, by the doctrine of estoppel.

## **SIXTH AFFIRMATIVE DEFENSE**

45. The Second, Third, and Fourth Counterclaims are barred, in whole or in part, by the doctrine of failure of consideration.

## PRAYER FOR RELIEF

WHEREFORE, by reason of the foregoing, the Debtors request that the court enter judgment:

- (1) determining that the proceeds of the Disputed Property (as defined in the Complaint) belong to the Debtors' estates and not to individual members of the Easterday family, including Defendants;
- (2) declaring that the proceeds of the Disputed Property (as defined in the Complaint) constitute estate property in their entirety;
- (3) denying Defendants' request for judgment directing any specific performance by Plaintiffs with respect to the Cooperation Agreement because of Plaintiffs' good faith compliance with the Cooperation Agreement;
- (4) declaring that the Sale Properties belonged to the Debtors' estates prior to the Sale and not to individual members of the Easterday family, including Defendants;
- (5) determining that the proceeds of the Sale Properties belong to the Debtors' estates in their entirety and not to individual members of the Easterday family, including Defendants;
- (6) declaring that the water rights with respect to the Sale Properties belonged to the Debtors' estates prior to the Sale and not to individual members of the Easterday family, including Defendants;

**DEBTORS' ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS OF CODY AND DEBBY EASTERDAY – Page 6**

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- (7) determining that the proceeds of the water rights with respect to the Sale Properties belong to the Debtors' estates in their entirety and not to individual members of the Easterday family, including Defendants;
- (8) declaring that the irrigation improvements with respect to the Sale Properties belonged to the Debtors' estates prior to the Sale and not to individual members of the Easterday family, including Defendants;
- (9) determining that the proceeds of the irrigation improvements with respect to the Sale Properties belong to the Debtors' estates in their entirety and not to individual members of the Easterday family, including Defendants; and
- (10) granting the Debtors such other and further relief as the court deems just, proper, and equitable, including the costs and expenses of this action.

Dated: December 8, 2021

## BUSH KORNFELD LLP

/s/ *Thomas A. Buford, III*

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DEBTORS' ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS OF CODY AND DEBBY EASTERDAY – Page 7

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